

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Peter Tavernese Jr.	Examiner:	Nguyen, Quynh H.
Serial No.:	09/745,305	Group Art Unit:	2642
Filed:	December 21, 2000	Confirmation No:	2060
Title:	CUSTOMER SERVICE RESPONSE SYSTEM FOR INTERACTION WITH CUSTOMER SERVICE AGENTS		

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

Sir:

I. INTRODUCTION

Appellants submit this Reply Brief in response to the March 25, 2009 Examiner's Answer. This Reply Brief is due on or before May 26, 2009 (May 25, 2009 being a Federal Holiday). Appellants have previously paid all the corresponding fees relating to this appeal. No fees are believed due in connection with this submission. However, the Commissioner is authorized to charge any necessary fees that may be due or credit any overpayment to Appellants' Deposit Account No. 14-1315, Reference No. 27996-133.

This Reply Brief addresses the following points raised by the Examiner in the March 25, 2009 Examiner's Answer (See, Examiner's Answer, pages 3, 7, and 8):

- (i) Whether Appellants argued only rejections of independent claims 1, 16, 27, and 28.
- (ii) Whether two separate systems, one being workable with a Web-based Enterprise Contact Server and the other being workable with PSTN type calling, disclosed in U.S. Patent

No. 6,687,241 to Goss (hereinafter, "Goss"), can be properly combined to disclose a graphical user interface (GUI) electrically coupled to the CSRS and configured to receive and display information from the CSRS.

(iii) Whether Examiner's allegations that U.S. Patent No. 5,526,417 to Dezonno ("Dezonno") discloses use of both pre-conversation and post-conversation messages and that Goss and Dezonno are "in telephone communications that deal with automatic call distributor" are sufficient to combine both references to render claims 1 and 3-29 obvious despite conflicting disclosures of references that render one reference inoperative in view of the other.

II. ARGUMENT

Appellants reiterate and incorporate herein by reference all of their arguments previously presented in the Appellants' Appeal Brief, filed December 22, 2008 (hereinafter, "Appellants Appeal Brief").

(i) Contrary to the Examiner's suggestion in the March 25, 2009 Examiner's Answer, Appellants have argued patentability of all claims 1 and 3-29 in the present application. Appellants arguments in their December 22, 2008 Appellants' Appeal Brief as well as in this Reply Brief are applicable to all claims. This is further evidenced by the following statement in Appellants Appeal Brief on page 20:

Claims 16, 27 and 28 are not rendered obvious by Goss alone or in combination with Dezonno for at least the reasons stated above with respect to claim 1. Thus, the rejections of claims 16, 27, and 28 are respectfully traversed.

Claims 3-15, 17-26, and 29 are dependent on independent claims 1, 16, and 27, respectively. Thus, claims 3-15, 17-26, and 29 are not rendered obvious for at least the reasons stated above with respect to claim 1. Thus, the rejections of claims 3-15, 17-26, and 29 are respectfully traversed. (Appellants Appeal Brief, page 20).

As such, the Examiner's statement on page 3 of the March 25, 2009 Examiner's Answer is improper. Appellants respectfully request withdrawal of this statement.

(ii) Contrary to the Examiner's assertion in the March 25, 2009 Examiner's Answer, Goss fails to disclose, teach or suggest, *inter alia*, graphical user interface (GUI) electrically coupled to the CSRS and configured to receive and display information from the CSRS, as recited in claim 1. Appellants respectfully submit that the motivation to combine two systems disclosed in Goss, i.e., one operable with Web-based Enterprise Contact Server and the other operable with PSTN type calling, is essential to support Examiner's rejection and is not irrelevant. (See, Examiner's Answer, page 7).

As previously stated in Appellants' December 22, 2008 Appeal Brief, Goss discloses an enterprise contact server that enables customers to submit call-back request to agents located at any one of a plurality of call centers via the Internet or any other communications technology available. (Goss, Abstract). Goss's call center includes various components responsible for answering and routing contact requests and inbound calls, which include an automatic call distributor ("ACD") providing a telephony switching means, a call center contact server supporting agents, agent workstations, agent telesets, computer/telephony interface, and a LAN (e.g., Call Center A). (Goss, Col. 4, lines 20-46). Goss further discloses two different ways of routing depending on the types of contact requests/calls received. (Goss, FIGS. 3a-b and 4a-b). In the Internet-based routing, the customer logs into a Web site and forwards contact requests through a feature on the Web site. (Goss, FIGS. 3a-b). The contact requests are handled by an Enterprise Contact Server that selects an appropriately qualified agent and forwards the request to the agent's workstation, using which, the agent can establish a call through TCP/IP communication. *Id.* Call handling of the PSTN-type customer calls is sufficiently different from the Web-based contact requests. In the PSTN-type calling, the customer calls the call center and the call is handled by the Enterprise Voice Response System ("VRU"). (Goss, FIGS. 4a-b).

Various components, including PSTN switches, Enterprise Routers, etc., determine a destination of the call based on the provided call data, where Call Center Contact Server resolves destination routing, i.e., connection to an agent. *Id.* As such, the contact requests and PSTN call routing are different from one another. It appears that Goss' web-based system is employing some sort of agent's workstation, where an agent is capable of viewing HTML pages similar to the ones viewed by the customer, whereas its PSTN-type system is configured to bypass the workstation component and connect the calling customer directly to the agent.

As previously pointed by the Appellants, the Examiner improperly attempted to combine these two systems in Goss to support disclosure of graphical user interface recited in claim 1. It seems that the Examiner is relying on Goss' PSTN-type system to reject Appellants' claims with the exception of the graphical user interface element recited in claim 1, for which Goss' Web-based system is used. However, the PSTN-type system fails to include such graphical user interface, as the calls from customer are directly connected to the agent. Further, the Web-based system, as is the PSTN-type system, is not capable of responding to an incoming telephone call from a calling party by playing a message to the calling party, as recited in claim 1.

Since the two systems of Goss route customer's contact requests/calls in a different fashion, the Examiner failed to provide a motivation to combine these two systems to properly support his rejection of claim 1.

As such, Goss, either alone or in combination with Dezonno fails to render claims 1 and 3-29 obvious. Appellants respectfully request withdrawal of Examiner's rejections.

(iii) In contrast to the Examiner's statement in March 25, 2009 Examiner's Answer that Dezonno teaches both pre-conversation messages and post-conversation messages, Appellants respectfully submit that Dezonno teaches away from use of pre-conversation messages.

Specifically, Dezonno states that systems employing preannouncement (i.e., pre-conversation) messages are disadvantageous, as they “require a telephone call between the customer and agent to be connected while the greeting message is being played.” (Dezonno, Col. 2, lines 19-22). (emphasis supplied). As previously stated, Dezonno seeks to increase efficiency of its agents by enabling them to use buttons to terminate calls and having Dezonno’s CPU playing termination messages. Further, based on Dezonno’s disclosure, preannouncement messages are not used, as they restrict the agent from serving other calls during the playing period of the pre-conversation greeting. (Dezonno, Col. 2, lines 25-27). (emphasis supplied). Hence, contrary to the Examiner’s suggestion (Reply Brief, page 7), Dezonno fails to teach both pre-conversation and post-conversation messages.

On the other hand, Goss is a preannouncement message system. (emphasis supplied). As stated above, Dezonno specifically eliminates use of preannouncement messages and is completely inapposite to Goss. Thus, Examiner’s statement that both references “are in telephony communications that deal with automatic call distributor” (Examiner’s Answer, page 8) is insufficient to combine these references.

According to MPEP 2143.01:

I. *PRIOR ART **>SUGGESTION OF< THE DESIRABILITY OF THE CLAIMED INVENTION

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Obviousness can * be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 986, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006) ...

II. WHERE THE TEACHINGS OF THE PRIOR ART CONFLICT, THE EXAMINER MUST WEIGH THE SUGGESTIVE POWER OF EACH REFERENCE

The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art, and all teachings in the prior art must be considered to the extent that they are in analogous arts. Where

the teachings of two or more prior art references conflict, the examiner must weigh the power of each reference to suggest solutions to one of ordinary skill in the art, considering the degree to which one reference might accurately discredit another. *In re Young*, 927 F.2d 588, 18 USPQ2d 1089 (Fed. Cir. 1991)

...
III. FACT THAT REFERENCES CAN BE COMBINED OR MODIFIED **>MAY NOT BE< SUFFICIENT TO ESTABLISH *PRIMA FACIE* OBVIOUSNESS

The mere fact that references can be combined or modified does not render the resultant combination obvious unless **>the results would have been predictable to one of ordinary skill in the art. *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007)

...
V. THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)

...
VI. THE PROPOSED MODIFICATION CANNOT CHANGE THE PRINCIPLE OF OPERATION OF A REFERENCE

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)... (emphasis supplied).

Appellants respectfully submit that Dezonno's disclosure discredits Goss by specifically teaching against use of preannouncement messages as being inefficient and contrary to its intention of increasing overall call servicing efficiency. (Dezonno, Col. 2, lines 22-25). However, Goss is concerned with communications that take place prior to customer and agent being connected to one another, i.e., playing of preannouncement messages. This clearly lengthens the call handling time, and thus, is contrary to the purposes of Dezonno, and thereby rendering it inoperative, as Dezonno's agents may not be able to service other calls during the playing period of the pre-conversation greeting. Similarly, Dezonno clearly criticizes the use of preannouncement messages that are employed by Goss to establish communications. If

preannouncement messages are not used, Goss becomes inoperative, as calls cannot be connected without pre-conversation exchanges.

Thus, Examiner's statement that Dezonno teaches pre-conversation and post-conversation messages is improper. Additionally, Examiner's allegation that both references are "in telephony communications that deal with automatic call distributor" is insufficient to provide a *prima facie* case of obviousness, as required by MPEP 2143.03.

Thus, for the reasons stated above and in the Appellants' Appeal Brief, the combination of Goss and Dezonno fail to render claims 1 and 3-29 obvious.

III. CONCLUSION

For the reasons presented in this Reply Brief and in the Appellants' Appeal Brief, Appellants respectfully submit that the claimed inventions are novel and non-obvious over the cited prior art. Accordingly, Appellants request the Board reverse the Examiner's rejections.

Respectfully submitted,

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